BURLINGTON, VT., FRIDAY MORNING, APRIL 20 1866

with Kelly the cause of which no one can di-

## The Free Press.

GEO. W. & G. G. BENEDICT, EDITORS AND PROPRIETORS.

FRIDAY MORNING APRIL 20, 1866.

THE FINNEGANS.-There is a fresh stir in the Fenian circles, and in Her Majesty's prothe remain circles, and in Her Majesty's pro-vinces. It seems that the terrible Fenians which has thus been questioned. I would not propose, as has of late been freely stated, to serme the island of Campobello, belonging to "Now we have to add that Senator Poland" for the people and by the people, had in New Brunswick, off the mouth of the Passamaquoddy Bay, and there inaugurate the Irish Republic. The following dispatch to the New York Herald, from Eastport, Me., just opposite Campbello, has a belligerent

Esseroter, April 10. western towns on the British side was de-western towns on the British side was de-stronged last night by the Fenians. The gar-So far as I have means of knowing, Mr. Foot, a question. This, I understand to be the rison at Campo Bello has been increased, and if present, would have veted as I did. After central idea of radiculism. There is anoth-was ruggiged vesterday in throwing up the case had been very carefully examined by explan besed on "magnatimity"—which is earthworks. The Fersian convention is now The hotels and boarding houses are York to-day. The inhabitants are skedad. dling from the other side of the border and siling from the other side of the border and coming here for eachly. Two more English war ships are reported steaming to the north-custion headland of Campo Belle island. The ferming vessels which arrived island. The feming vessels which arrived and some political excitement had risen, I was been a day or two ago, and which are armed told in the Senate that Mr. Fest said he should with howitzers and twenty pounders, were vote-against Mr. Stockton, and was requested to

expedition. A disputch to the Toronto Leader says "arms in considerable quantities and ket. The latest disputeing from Toronto 1 do not propose to enter into any argument

The Loan Bill, to enable the Secretary of the Treasury to meet the obligations of the government about to become due, possed

The N. V. Times says: "Senator Lane of Kanaus no doubt greatly exaggerated when he said that "the Republican

Party is crumbling to pieces." We are happy to be able to agree on this point with the Timer. It is the Senator aforesaid who is "crumbling," not the great party which has kept in office ever since he joined it-at least, ever since it had an office to give him .- N. Y. Tribane.

that the English government is fitting out a voted in the same way, had be not been con

mensores probably 3 miles. It is indented all along its sides with numerous bays and ture," within the fair meaning of th inlets. One of these, called Harbor de Lute, stitution, for the purpose of regulating the choice of United States Senators?

named for Sir Archibeld Campbell, governor of the Province about the time of the

would be, if well furnished with fortifien- consequences of permitting Stockton to retions, a commanding and strong position .let to the waters of the St. Croix river and in accordance with the Constitution of the

The island of Campobello seems to have been selected by the Fenians as the base of ture on Thursday evening drew one of the injury in a slighter degree of Mr. V. B. their operations against New Brunswick .- largest audiences of the season, the hall be- Shaw, of this place, and three other passen-

A Washington dispatch says :

"It is stated that Sir Frederick Bruce, the British Minister, has received information that to attack some point in the British Provinces, and that serious remonstrances have been re-ceived from the Canadian authorities."

The Portland Press, noticing the passage of Fenians through that city, says:

" What the programme is we do not pretend eastward was in contemplation there would not there has been. Matters would be conducted (From Walton's Journal 1

Hon E. P. Walton : Dean Sin-On my return here last night I found your paper of the 30th ult., containing an article on the Stockton case, and criticising my course in relation to it. I very fully acknowledge the right of the public press to review the action of men holding public position, and to condemn whatever they disapprove, and I believe I have a condition or included to come were the condition or includes the I believe I have never in any instance attempted

and if the facts warrant the conclusion that there is a reasonable doubt against Mr. Steek- er shall be concentrated in a class. The true

the committee, and we had agreed to report in favor of Mr. Stockton, I conversed with Mr. rammed with Fenians arrived from New Foot about it, stated to him all the points of the case, and the grounds on which we thought his election valid. Mr. Foot said he thought the with howiters and twenty panders, were not allowed to go out of the harbor at 12 withhold my vote for him, to equally the loss of withhold my vote for him, to equally the loss of Mr. Foot's vote. I immediately went to see Mr. Foot, and told him what had been said to me; and coof.

The Format and reople are excited

The Format and reople are excited over the arrest of Mr. Michael Murphy, the bead centre of the Toronta Fenians, and five if I had examined the case, and felt satisfied has entire of the Toronta Fenians, and five if I had examined the case, and felt satisfied has earning the case. other Irishmen, traveling from Toronto to
Portland, it is supposed to join some Fenian

that Mr. Stockton was legally elected, it was
my duty to rote so, without regard to him. I
have no doubt but that if Mr. Foot had been in

There were a thousand men in the South. the Senate, Vermont would have given one more whom if God had seen fit to call to himrelf, vote for Stockton.

ammunition were found upon them." The properly a legal question, and could not properly be affected by his politics: the same state of facts which would legally elect a Repulcould have been slowed away on the persons bean, would equally elect a Personat, or a in person. The rest are in their old positions

ses of the arrested parities were searched, strength in the Senate, but I did not suppose verted. They must be counted in, to our and munitions of war found and seized to legally, elected because he was not a Republican, problem. And now in what mood do they would desire to have me.

aumounce that " the nutherines are acting with the utmost promptr se." So that we selection was devolved upon a particular hely of may expect the Canadas to hold their own men, and to express law existed as to the managainst the Fenians for a while longer at ner in which they should express their choice, mullifying of the ordinance of secession. that by the general rule of parlicementary law any manner, which the majority acreed upon, and which should tend to bring out the personal. States. The rest deliberately and meaningly ice and judgment of the electors, was valid.

Very truly yours, L. P. POLAND.

the real point in the case, which was - Is | tal and the rebel scale will kick the beam. the joint assembly of any state a "legisla-

We cannot permit one remark of the Sen-There are on the island about 1500 per- ator to pass uncontradicted. It is this: sons, fishermen and their families. It was " In your article, it seems to be assumed

ken into consideration by me." We said no such thing, and never intendnumerous islands at the mouth of the Bay ed to assume it, but quite the reverse, viz: of Fundy. Grand Maran, which lies more of Fundy. Grand Maran, which lies more party question; but whether the Constitution shall be fairly interpreted and obeyed, posite the southern end of the island, rises and the states fitly represented in the Sen-high above all the surrounding land, and tain his seat wrongfully, or on doubtful ground, but only as emphasizing the impor-It overlooks the narrows, which are the out- tance of settling the question right that is,

frontier, and that several companies of Fe- Offering free scope to men of all opinions, ly burned through. The engine passed over nians had left Chicago, ostensibly for Og- trusting in the power of truth to overcome in safety, but its weight broke the timbers which could not have originated in any less wreck of the train followed. highly educated community than that of Conductor Appleton was brought home in New England. To such a rostrum he was a helpless state on Friday. His injuries are glad to bring a discussion of the momentous to the processes of the vertebrae, and we question whether Democracy can fight hav- ous. ing been settled to our satisfaction and to of the European lookers on, who when Sumter PERSONAL.-Mrs. Jefferson Davis, attendwas fired on, said "there the American bab- ed by two servants passed through our city ble has burst, "it remains to be settled wheth | this A. M. on her way to Montreal. be such a general and public exposure of arms er Democracy can govern. The speaker had and ammunition brought from New York, as been widely ridiculed because six months

Senator Foland and the Stockton Case | which they had failed to win by arms. But | THE BURGLARY.-No arrests have yet been ty gained a clear victory. Ten years hence

led to the war, and what ought to be settled | morning. labor, and that all political and social powton's right, the vote of Senator Peland will be law of reconstruction after such a conflict, is such regretted and justly condemned."

You do not say directly that Mr. Foot would that the conquering idea has the right to Communication between St. John and the have voted against Mr. Stockton, if he had been able to be present, but such, I think, is till the issues of the war are settled beyond er plan based on "magnanimity"-which is not even cousin german to Common Sense, Two men go to law about the boundary line between their farms. For ten years they carry it from court to court. The question is finally settled by the court of last appeal.

What next? Of course nothing remains

We K. Tarr.—Saw the two carriages of Mr. Potter and Mr. Griswold pass my house on Sunday morning. The forward carriage had the curtain up behind, so that I looked in from behind and saw two men in it; I between their farms. For ten years they the court has said it should be and let the be Clark Potter. winner take possession. This is the method of common sense. The "magnanimity" plan, urged by the President and the Apos tle of Plymouth Church, would be to have Whether Mr. Stockton was legally elected or or drop them the other way, there would lo I believe any Republican in Vermont come back? They have deserted none of their eld projudices and principles. The reported their acts of secession, reserving 

maintain in substance the supremacy of the slave masters over the blacks, whatever was no doubt that the homicide of Mrs. more than they used to enjoy is granted Griswold was a murder. He should have them, is given not a right but as a boon. The little to say on the legal points, simply calllaboring class must not be consulted and can We of course give the above cheerfully; have only what the aristocratic class in a murder that he must have be it passed the H use. There was a good growing out of the article that clicited it, for Northern men at the South than before deal of discussion upon the bill, those op as we stated it, the fact that Senator Foot | the War. Carl Scharz in his lectures tells | by Ward, while Potter was in Sheldon, and pased to it arguing chiefly that too much at one time concurred in judgment with power was placed in the hands of the Secretion and Senator Poland. Perhans he did to the end, them have to go—in companies of not less though it is observable that in the last inpower was placed in the hands of the Secre-tary, especially with regard to contracting the currency.

Solution was placed in the hands of the Secre-though it is observable that in the last in-terview he did not commit himself, and ad-vised Senator Poland to act upon his own greenbacks and the other full of revolvers, conviction of daty," without regard to him."

It was fit advice for a dying Senator—a noble rule for the living. Had Senator Foot lived to listen to the debate and units in the to guard the fruits of our long and bloody final vote, we cannot help feeling that his fight, has gone over to the enemy. The clear appreciation of the legal and practical distinction between a legislative body of coordinate branches and powers, and a joint assembly, would have led him to vote, on his Senate chamber and the White House. The own convictions, with a majority of the Sen ate, as well as with at least an equal weight of judicial anthority in that body. We canit—at least, ever since it had an office to of judicial authority in that body. We can not agree to put Fessenden and Sherman and Clark and Howard and Wade below the distinguished lawyers mentioned by Schator Poland. In fact, we cannot help feeling that Schator Poland himself would have gladly for their late masters. We can hope for world in the same way, find he not been com-mitted by the action of his committee, He nothing from him. Congress is now our flect of war vessels, whose destination is supposed to be the St. Lawrence. Great Stockton entitled to the seat, and that reconstitution it is, can not be expected to take higher

Britain is taking every procession to prevent a surprise by the Fennans. It will also be handy for her to have a fact of war ships.

Another thing is added to our statement of the case, and that is the ground on which Senator Poland acted, thus: "That when what they would not dare to have told on the St. Lawrence in case any difficulty an election was devolved upon a particular in Washington, and who whisper at Washshould arise with the American flahermen to the manner in which they should express law existed as ington what they would not for the world their choice, by the general rule of parint- have heard at home. The people must hold mentary law any manner, which the majori-ly agreed on, and which should tend to being out the reresonal charges and independ of the The Sear or the Festian War. — The seland of Campabello is a narrow piece of land stretching north and south, at the entrance to the Boy of Fandy, and at the mode of electing a Senator, mouth of the river St. Croix, which latter except by providing that a choice shall be mouth of the river St. Croix, which latter except by providing that a choice shall be made in joint assembly, that assembly had the right to blink "the personal choice and ignorance, into the one scale; put into the whiskers. He is next identified by Morris

> terance, the pithiness of his matter, and been too often described to need recounting. parties in the Senate, should have been ta- once were not greatly marred by the admix- be was the man who was there on that ture of the litter personal denunciation, which, applied as freely to good men as to

accident occurred on the Vermont Central says he thinks not. He further says be consequences of permitting Stockton to retain his seat wrongfully, or on doubtful ground, but only as emphasizing the importance of settling the question right—that is, in accordance with the Constitution of the United States.

Wender Phillips' Lecture.—The lecture on Thursday evening drew one of the largest audiences of the season, the hall beliance of the largest audiences of the season, the hall beliance of the largest audiences of the season, the hall beliance of the largest audiences of the season, the hall beliance of the largest audiences of the season, the hall beliance of the largest audiences of the season, the hall beliance of the largest audiences of the season, the hall beliance of the largest audiences of the season, the hall beliance of the largest audiences of the season, the hall beliance of the largest audiences of the season, the hall beliance of the largest audiences of the season, the hall beliance of the largest audiences of the season, the hall beliance of the largest audiences of th error in a fair field, it is an agency of good so that the tender fell through, and the

issues of civil duty, at this crisis. The are pained to hear are considered danger-

South should still gain the victory by finesse broke open his candy store the other night.

these who scouted the idea, forgot that there | made for the robbery of Fuller's bookstore, never yet was a civil war in which either par | though suspicions are had and investigation is going on. Of the money stolen, \$400 History will look back and say of the loyal | belonged to the Vt. Baptist State Conven-States, "what a superb opportunity they tion, and was deposited with Mr. Fuller; had,"—whether it shall be added,"and they improved it," it is for us to say.

\$300 of the sum was in Government bonds kins saw the prisoner in pail and thinks he and notes. The clerk, Chas. Halbert, dis-Mr. Phillips proceeded to consider what covered the theft upon going to make change were the conflicting principles at issue which for a customer after opening shop in the Why he should ask this, when Potter had just

> NAVIGATION RESURED .- The steamer Montreal commenced running between this city

and Plattsburg to-day.

Chittenden County Court.

APRIL TERM, 1866. Present-Hox, JOHN PIERPOINT, Chief

Hon. WR. V. REYNOLDS, 7 Assistant Hon. SAFFORD COLUT. | Judges. THE GRISWOLD NURDER

THURSDAY, April 12. Court opened at nine.

Ww. K. Tarr .- Saw the two carriages of with that of Ward. Our theory is but to call in the surveyor, run the line where noticed Mr. Griswold and took the other to had come.

Cross-gramined. The other earrings was near by, as close as two fearns could travel comportable.

the eight o'close P. M. train a stranger comportable.

Patrick Hayrs - Sworn - Resides 174 Cherry St., New York; tends bar in a liquor store; has previously kept a liquor store; drove a horse and cart; been in the army, and in the kindling wood business; drove cart from April '64 to April '65; worked for Here estates in Mr. Bowman's testimony. He is an intelligent and candid witness, with fisted in Co. A. 3d N. Y. regiment for 2 years; served 25 months; I know Jerome Lavigue by sight; this is the man in Court; have known him since May or April '61, about a man talking with Mr. Potter, and he behe time I enlisted; first saw him in Albany; I left the service in May '63; I have seen Lavigne in my place since then; on the 26th, of August 1865, I lent him \$42 at 410 Seventh Avenue; it was before dinner; he had not said so; but he is confident this In your article it seems to be assumed that in the performance of my duty, the politics of the state of parties in the Senate, should have been taken into consideration by me collected at Burlington, for St Patrick's Day, were also "upon them." The premise of the Senate has been taken into consideration by me and the class he represent the senate has gone by. Davis and the class he represent the Senate has gone by the senate and the state of parties in the Senate, should have been taken into consideration by me and the class he represent the senate and the state of parties in the Senate has gone by. Davis and the class he represent the counter of the senate is the man.

Seventh Avenue; it was before dinner; he sked me for the money, saying he wanted to go to Albany with some friends of his in an Artillery regiment which was to be must be senate and the state of parties in the senate in the counter of the money, saying he wanted to go to Albany with some friends of his in an Artillery regiment which was to be must be senate as gone by. Davis and the class he represent that the delence will endeather that the delence will endeathe an Artillery regiment which was to be must be senated to go to Albany with some friends of his in an Artillery regiment which was to be must be senated to go to Albany with some friends of his in a sked me for the man.

It is evident that the delence will endeather that the delence will endeathe an Artillery regiment which was to be must be senated in the state of parties in the Senate and have it all. I made a little note of it, (exhibits note a small note of hand for \$42. If a non-starts out on such an errand as this visit to Painewille and meeting of Ward this, he is not likely to take but one suit of there. which the signer agrees to pay within 30

Cross Examined,-1 am 23 years of age;

Crass-Er .- I have been talked with since Mr. Edwards testified, by Mr. Roberts.

opened by E. R. HARD, Esq. ing their attention to the fact that it is not necessary to constitute a person a principal pars in it, he is a principal. In this case, if it appears that the murder was committed

Our theory is that Ward, or Lavigne, or whatever may be his name, was the one who held the wenpon, and that Potter was the instigator and a complice of this appalling

stances.

It is the natural method first to ascertain if Ward had the opportunity to commit the crime. We know little about him. Two witnesses are brought from New York, but finding evidence that the body was so carried in the pressure on the pressure of the pressure on the pressure on the pressure of the pressure on the pressure on the pressure of by two or three names, and that his only business was that of a bounty broker. But we find that he was within a convenient distance for the commission of the crime.

The first we see of him in the testimony,

he is seeking a conveyance to Williston on rides then from the cars with Mr. Charles billy On the way be inquires about Potter, is carried by Charles part way to Potter's to Kelig about an affray near Jack Merrill's. house, is directed to it, and reaves in that He showed no wounds in himsen! How abdirection. On the 20th of September Mr. Charles is called to the jail in Burlington, the means of identification a peculiarity about his eyes; and without commenting on Ward's appearance, it is proper to say that he has a marked countenance calculated that the blood from his pants? Why not take back his horse to the large that he has a marked countenance calculated the countenance to the large that he has a marked countenance calculated the countenance to the large that he has a marked countenance calculated the countenance to the large that he has a marked countenance calculated the countenance to the large that he has a marked countenance calculated the means of identification a peculiarity the arrest of the men who attacked him.—

Why try to wash off the blood from his pants? Why not take back his horse to the large that the countenance is a second to charge the jury upon the following points:

I that upon the evidence in the case the tween the State of Maine and the Province of New Brurswick. The pland is about 10 miles in length, and at its greatest width Mr. Potter on their way to the depot, that same Wednesday. We have also the testi-mony of Mary Sullivan, an intelligent and Mr. Phillips spoke about an hour and a candid witness, who was at Mrs. Griswold's balf, and held his audience intent and interstranger frequently. Amonth later she is called to Burlington; she does not go to the jul : but remains at the Grand Jury room ; he aptness and wit of hishliustrations, have the prisoner is brought there, and she testities that as soon as she saw him as he passed Wednesday. The testimony of Redmond & Downer is less strong, but bears in the same

Against this evidence we have that of Mr Against this evidence we have that of Mr Griswold, a deal and infirm old man, who when asked if the prisoner in the box is the ution. The Counsel on the other side may thinks this is not the man he saw in jail .some one shrewoer than she. She says the

er Democracy can govern. The speaker had been widely ridiculed because six months since he had expressed apprehension lest the since he had expressed appreh

We next find Ward at Winooski, on the | expenses to Rouse's Point. Does it not occur | fact of the conspiracy existing prior to the Saturday before the murder. Where he was on Friday does not appear; Potter was not idle that day. He is out at Wincoski and idle that day. He is out at Winsoski and inquires at the hotel there if a darkish man has been there to see him. On Saturday Potter and the stranger are seen by Mr. Wilkius on the way to Winouski. Mr. Wil-

botel in Winooski and he is seen by Atkins, of whom he inquires, if he has seen Potter? before left him, seems strange. It may have Kely as to that conversation. been for want of something else to say-or it may have been one of those strange features attending the commission of the crime-such as the removal of the dead body of Mrs. marked as to the proof that they were actually Griswold from the house to the calf-pen, or the prisoner's unaccountable conversation

with Kelly the cause of which no one can di-vine. Soon Potter came in. The two con-have been written by the prisener, as well as versed together a few minutes and then sep-scrated. Atkins saw Ward namediately, after his arrest by Mr. Flanagan, and says that as soon as he saw him, without any sugges-ti n or knowledge that he was under arrest, he decided in his mind that he was the man. bg pursuit and evading identification. As to the mo ive for this crime it does not appear that there was enough plunder to empt any burglar to come up from New York. What next? After Potter had been up to Jack Merrill's for nothing apparently but

to buy a eight, and had then gone back to-words Winooski, we find him (Potter) on his way home by an indirect coute. He is seen by Mr. Prast shout home a clock, going East toward Painesville, and a stranger with him, whose general appearance corresponds quier is. Who had a motive for it." Potter goes home, and after the arrival or

takes lodgings, stays that night, is around all day on Sunday, till about 9 in the evening, when he disappears Mr. Fish tells you. this Ward was that man, He speaks him and Potter, and of others as to the reor any teason for involving either of them. He tells you that on Sunday morning he saw lieves this is the man. He selected him in jail, without his being pointed out. True. he has owned that there was a chance for a mistake, and we know that to be so, if he

clothes. He may have two sets of whiskers, and change hat or cont or whiskers. Ward had no beggage at Tyler's, and had two bags the anti-slavery Amendment and the alanders of the right of secession by the and took dinner. In the man i referred to who came and took dinner. night positions to reconnecte all be wished We bring lam to Paincsvile, at a convenient He disappears late in the evening without

story about an affray exhibits his socks and pants stained with blood. Do you believe that in that hour and a baif that they were and condition of the premises have some

days; and that is what we say about him. Mr. Pease also tells us that Ward told him

not theirs, for it was done in the night. The that his true errand could have been to purquestion must be determined by the circum-chase borses. He accounted for the excesfinding evidence that the body was a carried also in the way in which the chamise was Dr. Sprague discribes indentations on the skull of Mrs. Griswold exactly such as would

surd to suppose he could have got so thoody from the wounds of the other men. And State, and Mr. French common ed. why flee after it? One would suppose he would have stopped at least a day to sceare livery stable? How reconcilctins most im-probable relation? And against it all we such party was at his house, and that no such affery could have occurred. We have was present at the commission of the murder, had all the livery stable keepers, who tell us but virtually concede that he was in Sheldon. they had no horses out that might. It is a as his (the respondent's) testimony tends to

false story

The Court bere took a recess till 2 show. The indictment charges the respondents with the commission of the offence jointly.

s'elnek.

That this is to be their only point of operations is not likely. Toronto dispatches of yesterday say that information has been received of an intended attack on the Ningara frontice, and that experiments of the season, the half because this place, and three other passents of the season, the half because the latter not a periment of t testimony explains all this. He was there to purchase a horse; he had his knife out whittling. His loss of a finger was noticed in the presence of the girl. He corresponds to her description; and it is altogether probable that he is the person she describes, or that she has confounded him with the other man, both being strangers to her.

The man who was there on that Wednesday was with Mr. Potter for several hours. Coming to purchase horsee of him, is it likely that Potter would have learned nothing of his name and residence and business?—That would be almost impossible. In fact, there is direct evidence that Potter did ascertain some of these things. Mary Sullivan says Mr. Potter told her the man came from Rutland, and Judge French testifies that on the inquest Potter said the man said he came from New York. Why, then, has not Mr. Potter produced the man? If he came from New York. Why, then, has not Mr. Potter produced the man? If he came do not his meas, so ill suited to his apparent character; indeed, the inherent absordity of the story, when all the circumstances are considered, controverts the whole. He cally purchased a

treasury? A travelling mechanic is easily known by the tools he carries, whether tioker, seissors grinder, or what :-this man's tools were revolver and chloroform -what his busi

ness was is for you to say.

Now, gentlemen, I come to the interview between Kelly and the respondent Ward in jail about the first of October. What occasion had Ward to induce Kelly to say that he never saw him before, if the prisoner had never been here before as he alleged? The letters introfuced in evidence corroborate the testimony

Mr. Hard here read the two letters from Lavigne to Pease already published, and re spiracy. written by the prisoner, as appears from the testimony of Pease, Ballard and others

the piece of paper found on him with the ad-dress. "John Ward, &c.," on it; also the rail-road ticket with the address on the back, a trious place fo an address; but probably was put there as a further means of mislead

Mrs. Griswold had some jeweiry, some silver, Mrs. Griswold had some jeweiry, some silver, but not enough to pay for such a trip, and it something the something the perpetration of monther; therefore, when the question arises, Who was the author of such a crime? He first ony falls to disclose any human being and so much interest to have Mrs Gris rold hilled as Potter and his family. To be alive, Mr. Griswold would be tenunt by tre she was a periodent, orreasonable wo ing between her and her neighbors. Men are maintered for money or revenge. Potter, we say, was affected by both motives. His wife Potter and als wife into possession of the pro-

Mr. Hard proceeded to elucidate the testi ony of Williams as to conversation between marks of Potter at dinner -remarks natural enough to be made by a man in bad temper.

Mr. Griswold testifies that the old lady row impatient and fretful because she could not do as she had been used to before Potter's family came; he testifies that he saw Mrs. Pot ally came; he termine, many sufficient plants of the property of the second of the sec avarice and revenge

Mr. Hard then proceeded to discuss the evitalk about taking him to the depot and the misrepresentations of Potter as to where he tice Shaw's charge in the case of Common and from and then went on to consider Pat | wealth vs. John W. Webster, 5th Cushing.

that Potter's decision to go to Carada was not formed till late Saturday evening, but evi-dence shows that he had been talking about it for two or three weeks. He starts, goes to Paintsville, and stope, naturally; in our theory of the case, he would wish to stop and assure Ward that the whole family were out of the way. He sees some stranger, certainly, and Bowman's testimony that he saw Ward is nucontradicted. He says he saw them together The argument for the prosecution was

The argument for the prosecution pressuan.

Why is it he desires to ride in an uncomfortable express car, with a stranger, unless forgotten the fact only two or three dars table express car, with a stranger, unless something is wrong? In tells Kelley his after But Bowman gives the details as be take especial notice of him; that he would hear such a story and not rived has guze on his face, so that he would know him again? He sees him at Centre Ruthand and cray and where. Would a stranger have known how also that Potter instigated the crime and aided it by removing all the family to afford facilities for its commission, he is as much a principal as if he held the fatal knife.

Our theory is that Ward, or Lavigne, or a lavigne it while sitting in the kitchen previously. Then the door leading from the room where

that Tuesday afternoon be had been up into the country, and had rode a piece with Kelling and rode of his identification of perfect the Latthere any room for doubt of his identification of the other side to show that there sons."

The country and had rode a piece with Kelling any room for doubt of his identification of perfect with the country and had rode a piece with Kelling any room for doubt of his identification of perfect with the country and had rode a piece with Kelling any room for doubt of his identification of perfect with the country and had rode a piece with Kelling any room for doubt of his identification of perfect with Kelling any room for doubt of his identification of perfect with Kelling and the country and had rode a piece with Kelling and the country and had rode a piece with Kelling and the country and had rode a piece with Kelling and the country and had rode a piece with Kelling and the country and had rode a piece with Kelling and the country and had rode a piece with Kelling and the country and had rode a piece with Kelling and the country and had rode a piece with Kelling and the country and had rode a piece with Kelling and the country and had rode a piece with Kelling and the country and had rode a piece with Kelling and the country and had rode a piece with Kelling and the country and had rode a piece with Kelling and the country and had rode a piece with Kelling and the country and had rode a piece with Kelling and the country and had rode and had ro The first inquiry is if Lavigne was the person who committed the act. No human eye saw what was done, unless it was the victum's and the murderer's, and probably with the most of the mos

> Mr. Roberts, Counsel for the defence, here In the impaired why it did not rather show that the express our Ward exhibits a revolue, and manderer was mable to get into the other tells Kelly be has a spring billy—carbons instrument for a penerful desire in horses! [act of the house through the doors, and so

It must have been an easy job to open a attracting attention by going round outside. Mr. Hard here closed his argument for the

MIL PRENCH'S AUGUMENT.

jury should sequi: the respondent Potter un-der this indictment.

The prosecution does not claim that Potter

The case shows that Potter,if guilty at all, was

only an accessory before the fact. II. That unless the jury find that Potter himself perpetrated the murder, or was present aiding and abetting it, the jury should acquit him under this indictment. And that in order to constitute such aiding and abetting he must at the time of the commission of the crime have been so near the place or in such a sit in some manner to the commission of the of fence, and this by agreement with the chief perpetrator. - 3 "Greenleaf on Ev."

Under the old English law there was a difference between murder in the first and secand degree a murderer in the first degree being the actual perpetrator of the crime, a murderer in the second degree being one who did not actually commit the crime, but who was present aiding and abetting the principal perpetrator. These distinctions are not main | day of April, A. D. 1866.
L. B. ENGLESSY, J. P. tained in this State; still, the distinction be tween a principal and an accessory before the fact is as a · fully maintained as it is under the old system; and one indicted as a principal cannot be convicted as an accessory before the fact. This doctrine is shown in "Commonwealth vs. Knapp," 9th and 10th Pickering;

Potter, the jury must find that be knew the murder was to be committed and did some act to aid it, or had an active participation in the

making of the declarations must be first established.

V. That the declarations of Lavigne (supposing him to have been the person) made to Henry Charles and John Redmend cannot be considered by the jury as evidence against Potter in any event, there being no evidence in the case of any conspiracy between Lavigus and Potter before or at the time of the making of such declarations.

It is not competent to prove the conspiracy by the declarations of one of the conspirators in the absence of the other, and make such declarations evidence on the ground of a con

VI. That the testimony or Munson, the sheriff has no tendency to prove Potter's guil), and should by the jury be faul out on the

Potter was apprehensive that he would not have a fair trial on account of projudice exist. ing against him in the county. He only asked Mun on to call on such jurors as had no prejudice against him. Murson told Potter bewould do what he could to secure him a full terer first any communication with each fair trial. Potter replied that this was all that he wanted, and offered Muns n money in the to do and it was no evidence of his guilt. A other hands up states. person in Potter's circ mstances would natu

rally seek aid from the Sheriff. VII. That as to the alleged motive on the part of Potter to commit this crime; inasanch-Mr. and Mrs. Griswold had children born

tesy and have a life estate in all he real pro-perty of his wife. The death of Mrs. Griswold slid not put.

perty inastance is Mr Growold had a life al witnesses show that there was ill feeling interest in the real estate as temmt by courte-tween Mrs. Griswold and Patter sy. This does away with the claim on the sy. This does away with the claim on the part of the prosecution that Potter had an interest in the death of Mrs. Griswold, and therefore an object to murder her.

VIII That the jury must be satisfied beyond a reasonable doubt that the respondents are guilty, or their verifiet must be not guilty. And gainty or their vertice must be an garry. And that as to the requisite amount of evidence to warrant a conviction, it is not sufficient to es-tablish a probability, though a strong one, that the fact is more likely to be true than the ontrary, but the evidence out establish the truth of the fact to a reasonable and moral certainty a certainty that convinces and di-tects the understanding and sa isfies the rea-son and judgment of those who are bound to Mr. Hard then proceeded to discuss the evident consciousists upon it. 1 Am. Law oce as to Ward's visit to Potter's house, the | Cases, 360, 3 Greenleng on Ec., 29.

The counsel read at length from Chief Jus-

IX. That his being a case which is supported, if supported at all, wholly by circumstan-tial evid uce, the jury must be satisfied not only that all the circumstances are consistent with the guilt of the respondents, but they must be also satisfied that all the facts are such as to be inconsistent with any other rational conclusion than that the prisoners the guilty persons -2 Ross, on Ec. 716. The Coursel read the opinion of flavor Al-

dersen, quoted in "Russell on Crime" as bearing on this point. X. That a reasonable doubt in the minds of e jury of the existence of any one of the

chain of circumstances relied upon by the prosecution to convict the prisoners, justifies the jury in Taying uside that particular cir constance in making up their vertici. They are to consider such circumstance as not proved, and therefore it ought not to influence their opinion. -1 Am. Leaf. Cases, 569.

XI. That every caution observed in the reception of evidence in capital cases ought to be by the jury more especially applied in the reception and estimation of the opinions of witnesses as to the identity of persons, since

The counsel requested specific instructions to the jury on this point, and read several

sumed insecrat until they are proven guilty beyond a reasonable doub!

SATURDAY, April 14. was filled at an early bour. The respondent present at the act. Potter, who has heretofore been seated with-In the bar, now took his seat in the priso-

some additional testimony:

Affirmatif of sheariff mensor.

I, Wm. D. Munson, being duly sworn, on cath say that I am Sheriff of Chittenden Connity and keeper of the County Jail; that on the 27th day of March, 1866, the witness who testified on the stand on Thursday last under the name of Patrick Hayes, to the fact of his have 27th day of March. 1866, the witness who testified on the stand on Thursday last under the name of Patrick Hayes, to the fact of his having loaned money to the respondent, Lavigne, on the 26th day of August, 1865, and taken his Hayes, and the his the window, a blind has been removed and a bench brought from its usual place and placed under the control of the contr his [Lavigne a] note therefor, at that time in New York city, was committed to the jail in this County on the complaint of citizens, by the name given by him, of John Williams; that he was confined in the same room with Jerome La-

afraid I would recognize as having seen before. afraid I would recognize as having seen before.

He then asked if I remembered committing a man for intorneation a short time age; told him I did not remember any particular man, I had committed so many for that offence; he then asked me if I remembered committing a man who was drunk in front of the jail, and letting him go the next morning, as he had no money to pay his fine; told him I remembered the circumstance, he told me he was one of Lavigne's friends from New York, and that he came up in stance, he told me he was one of Lavigne's friends from New York, and that he came up in front of jail and played drunk for the purpose of being put in jail; he asked me if I did not think he played drunk pretty well. He was very poorly dressed and looked like a drunken Irish-men. He told me that he was from Rutland coins to Montreal for work

men. He tool me going to Montreal for work Wm. D. Munson, Sheriff Burlington, Vt., April 13, 1866. Subscribed and sworn to before me this 13th

The Court permitted the introduction of the testimony:

WILLIAM D. MUSSON, recalled by the State-

William D. MUNSON, recalled by the State— Had seen the witness Hayes before; saw him on the stand Thursday morning. First saw him on the night of the 27th of March last; first saw him on sidewalk on the jail side of Church street, within four rods of the jail.—
Witness was stumbling about the sidewalk and
flourishing a bottle of liquor. Ten or a dozen
persons were collected about him. William
Perry informed me that there was a drunken
Irishman in the street. This was between 9

Potter, the jury must find that he knew the murder was to be committed sond did some act to aid it, or had an active participation in the commission of the offence. A mere knowledge that the marder was to be perpetrated will not be sufficient.

IV. That the declarations of Lavigne (if he was the man) made to Henry Charles, John Redmoud, and Warren Atkins (his inquries for Potter, &c.) are not evidence against Potter, unless the jury find a conspiracy between Lavigne and Potter to commit this nuarder prior to the making of such declaration.

When the fact of a conspiracy between the declarations of any of the conspiracy are evidence against all; but before the declarations of one made in the absence of another can be used as evidence against the other, the

French at the jail during the time Williams was confined; didn't see any interview between La-vigne and Williams; saw Williams next at the foot of the stairs leading to Mr. Ballard's office; this was on the 25th, the next day after I discharged him; t met him as I was coming out of Murray's eight store; Williams or Hayes was alone; think I next saw him in the court room; did not have any con-versation with either of the respondents about this matter. Saw him drink twice from his bot tle, but don't know whether he frigned drackness; couldn't say whether any of the respondent's counsel came to the jail that attermoon. counsel came very often, especially Mr. Bullard

Cross Ex.—The stairway in Bank Block leads to other offices bendes Mr. Ballard's.

By the Court—Question—Mr. Museou, why did you not give this information to the Court at the time of the examination of Mr. Hayes?

Mr. Roberts objected, and the court waived the question, stating that it was made only to discover why the sheriff had so obviously neglected his duty.

Re-direct. - Lavigne and Potter had so confined that they could not communicate same conversation. All this Potter had a right to the room below, and from thence through

Haser bulkness recalled by the State I have no knowledge save what I get from Lavigne the next day. It was about I o clock next day; no endence then ec-er knew him to drink I supposed the govern-ment knew of this resussation when Hayes was examined. I saw Haves the day he was discharg ed at my office; he was there about an hour; am not certain he left for New York that night or the day following; saw him once more before he left at my office; was there not a great while then did not know he was coming before he came; did not know he had been sent tor; don't know that he has been a vive in preparing the defence in this case; don't know that he was a captain of the New York squal that came on Thursday night; the first time I saw the note was at the Howard House last Thursday morning; Mr. Hayes or Mr. Roberts had it; never knew Hayes till I saw him on the 28th of March at

This additional testimony being thus in, the arguments were resumed by Mr. Roberts, for the defence.

ME. BUBERTS' ABGUNENT.

Mr. Roberts, in opening, called the attention of the jury, impressively, to the sericusness of their duty, as involving the lives of two of their fellow men. They must remember that there had been no preliminary public examination in the case; only an inquest, preceding the in-quiry before the Grand Jury, when the testi many on which the charge against the respondents was founded, was given in secret session. The States' Attorney had kept his secrets well, as he had a right to, but in this secrety, he had had a great advantage over the defence. Much of the testimony introduced by him had come on the defence antirely as a surprise, and with-out opportunity to bring in relutting evidence. So that when the State asks, why does not Pot-ter explain this and that? The answer is "he had no knowledge of the thing to be explained. the witnesses appeared on the stand? The State has had the services of a special detective from the first, stimulated by the promise of a reward The jury must consider these circumstances and remember at what disadvantage, they place the

What is the theory of the prosecution ? It is first, that on the night of the 27th of August last, Mrs. Griswold was murdered by the hand of the respondent Lavague; and second, that Charles II Potter hired Lavague to commit the act of mursler. This is the theory, in point of fact. But it is not the theory of the indictment. That charges these respondents with having have consequently select the Court to charge that if you found that Potter was 40 miles on tant, that he cannot be convicted under this

sion of the counsel he would inform the juviz that it is not necessary to constitute a person a principal in a marder that he must if he was engaged in corrying out part of a plan of murder, -- yuch as the removing from erwise prevent its commission-it would be such an aiding of the murder as would make The Court opened at 8 o'clock; the room | him a principal, as much as if he had been

Mr. Roberts resumed. I stand before In the bar, now took his seat in the prisoner's dock.

The States' Attorney offered the following affidavit of Sheriff Munson, as a basis for an application for permission to introduce

an open door leading from it, we see into Mrs. Griswold's bedroom. We go to the kitchen door and pressing the latch, enter. We find on the was confined in the same room with Jerome Lavigne, respondent, under such circumstances that they could communicate through a grated door with openings of four inches across. He was confined about 8 o'clock in the evening, and discharged about 9 o'clock the next morning.—At the time of his arrest, he appeared very drunk, and had a crowd around him in front of the jail. Henry Ballard, attorney for respondent Ward, came to me Wednesday noon, about one o'clock, and requested me to keep a secret, which he proposed to tell me, which I promised to do. He then told me that he proposed in the atternoon to put on the stand a man whom he was afraid I would recognize as having seen before. open and rummaged, and everything valuable stolen. Passing out of the house at last the body of Mrs. Griswold is found, the skull fractured by two blows and cuts upon the throat one of which has severed the jugular vein. The body shows no blood below the waist. Thee circumstances show: first, as to the manner in which the murder was accomplished; that the criminal first went to the South kitchen window, and placed under it the bench that he might look within and see if the coast was clear. He next goes to the kitchen door. He observes the door leading up stairs outside, and either because he knew or suspected that some one because he knew or suspected that some one slept there. he fastens it on the outside by placing an obstruction over the latch. He trees the kitchen door by pressing the latch, it yields and he enters. He is met within by the old lady who has been aroused by some noise. She perceives the rubber, probably calls for aid, and is ellenced by a blow on the head. The cuts on the head may indicate that the kinds was used. the head may indicate that the knife was used before the blow; but the fact then there was no blood below the waist shows that she was protrated before the gash on the throatwhich drained her body of blood, was made, and we may infer that that was the final set. The murder is accomplished and it must have preceded the robbery, for thenceforth the robber is traced by the bloody foot and hand prints. He first attempts to force the door into the during room, leaving on it the mark of a bloody hand. Finding it difficult, he passes cutside, to effect cu-trance by the window. Failing in this he comes back, wades again through the blood on the kitch-en floor; forces his way in turn into the diningeilver; passing again in the dining room be seen a blind to one of the windows open. He deems it best to close it and does so leaving the window open, perhaps as a convenient avenue of excape; he enters the bed-room and risles the barron; then room back and discovered to

bureau; then goes back and disposes of the body. What does all this indicate? I maintain secondly that it does not indicate much knewledge of the premises—not as much as Potter had or would have communicated had he been connected with the crime. If Brownell entered the kitchen door without knewledge of the can dition of the latch, another man might have have a sell as he. The west kitchen window. done so as well as he. The west kitchen window had no fastening, yet the robber did not altempt to enter there, nor at another window, the